



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON, D.C. 20370-5100

TRG  
Docket No: 6760-00  
26 October 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 12 August 2000.

2. The Board, consisting of Mr. Zsalman, Mr. Pfeiffer and Mr. McCulloch, reviewed Petitioner's allegations of error and injustice on 24 October 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner reenlisted in the Marine Corps Reserve for two years on 13 April 1997 in the grade of GYSGT (E-7). On 13 April 1999 a 10 month extension became effective. On 13 May 2000 a three month extension became effective. The reason for the second extension was that he was awaiting action on his request for retirement. Petitioner was honorably discharged on 12 August 2000 at the expiration of his enlistment as extended. At that time he was credited with over 22 years of qualifying service for retirement.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended favorable action in similar cases in

which an individual was eligible for reserve retirement and there is no explanation in the record why the individual was discharged and not retired, or administrative errors occurred which precluded retirement prior to discharge.

e. The Board is aware that the Uniform Retired Date Act, 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it in a timely manner. Therefore, the Board concludes that Petitioner should be transferred to the Retired Reserve in the grade of GYSGT. Given the requirement of the Uniform Retirement Date Act, the Board further concludes that Petitioner should be transferred to the Retired Reserve effective 1 August 2000.

The Board also concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 1 August 2000 he transferred to the Retired Reserve in the grade of GYSGT vice being discharged on 12 August 2000.

b. That this Report of Proceedings be filed in Petitioner's naval record.

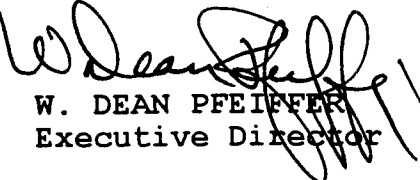
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby

announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
W. DEAN PFEIFFER  
Executive Director